UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON

William M., obo Jenna L. (deceased), v. Frank Bisignano, Commissioner of Social Security

William M. v. Bisignano · No. 1:25-cv-3147-EFS · Decided February 9, 2026

OPINION

Matthews
PER CURIAM.
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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
2 Feb 09, 2026
3 SEAN F. MCAVOY, CLERK
UNITED STATES DISTRICT COURT
4 EASTERN DISTRICT OF WASHINGTON
5 WILLIAM M., obo JENNA L. No. 1:25-cv-3147-EFS 6 (deceased),1 7 Plaintiff, ORDER REVERSING THE
ALJ'S DENIAL OF BENEFITS,
8 v. AND REMANDING FOR
PARTIAL BENEFITS
9 FRANK BISIGNANO,
Commissioner of Social Security, 10 Defendant. 11 12 Plaintiff William M., on behalf of his deceased daughter Jenna L., 13 asks the Court to reverse the Administrative Law Judge's (ALJ) denial 14 of child benefits, disability insurance benefits, and supplemental 15 security income claims. In response, the Commissioner asks the Court 16 17 1 For privacy reasons, the plaintiffs' last names are not listed. See 18 LCivR 5.2(c). Plaintiff Jenna L., for whom this matter is brought, is 19 referred to as Jenna. 20 1 to find the ALJ's decision supported by substantial evidence and to 2 affirm the denial of benefits. Because the ALJ failed to fairly and fully 3 consider the observations related to Jenna's co-occurring mental-health 4 disorders during the one-on-one sessions when Jenna was in custody 5 and at residential treatment, the ALJ's decision is not supported by 6 substantial evidence. The matter is remanded for a determination of 7 disability from January 15, 2019, to the date of Jenna's death on
8 August 3, 2022. Child disability benefits are denied because the ALJ's
9 nondisability decision for the period prior to January 15, 2019 (which is 10 after Jenna attained

the age of 22), is supported by substantial 11 evidence. 12 I. Background 13 In January 2021, Jenna filed applications for child disability 14 benefits on the account of her deceased mother, and for Title 2 and

15 Title 16 benefits on her own account.2 Each application alleged

16 disability beginning March 19, 2018, the day before Jenna turned 22 17 18 19 2 AR 407–43, 446–49. 20 1 years old. Jenna had a high school education and from 2015–17 worked 2 as a plastic molder.3 3 The agency denied each of the applications initially and on 4 reconsideration.4 Thereafter, Jenna requested a hearing with an ALJ.5 5 Before a hearing was held, Jenna passed away from a fentanyl 6 overdose on August 3, 2022.6 7 In May 2023, ALJ Timothy Mangrum held a telephonic hearing 8 at which Jenna's representative appeared and a vocational expert 9 testified.7 Counsel advised that he was trying to contact Jenna's father; 10 the ALJ stated that he would dismiss the Title 2 claim if a substituted 11 party was not before him within sixty days.8 12 13 14 3 AR 27, 478–92. 15 4 AR 141–49, 152–58. 16 5 AR 160–61. 17 6 AR 1334. 18 7 AR 45–53. 19 8 AR 47–48. 20 1 Thereafter, Jenna's father was substituted as the party for each 2 of Jenna's applications9; and the Washington State Department of 3 Social and Health Services (DSHS) advised it was an interested party 4 in the Title 16 claim based on Jenna receiving state-funded public 5 assistance cash benefits.10 6 In August 2023, the ALJ issued a decision denying the 7 applications, finding that Plaintiff's depressive disorder, schizoaffective 8 disorder, and substance use disorder did not significantly limit her 9 ability to perform work-related activities for twelve months.11 Later, 10 the Appeals Council vacated the ALJ's decision and remanded the 11 matter for the ALJ to re-evaluate step two and to consider whether 12 drug addiction was a contributing factor to a determination of 13 disability.12 14 15 16 9 AR 555. 17 10 AR 196. 18 11 AR 112–18. 19 12 AR 126–28. 20 1 A second telephonic hearing with ALJ Mangrum was held in

2 December 2024.13 Jenna's father and a vocational expert testified.

3 Jenna's father testified that Jenna heard voices and experienced 4 anxiety and paranoia independent of her drug use, and that her drug 5 use—along with cessation of counseling and medication—made her 6 mental health worse.14 7 After the hearing, the ALJ issued a decision denying benefits,15 8 finding: 9 10 11 13 AR 54–82. 12 14 AR 65–66. 13 15 AR 14–44. Per 20 C.F.R. §§ 404.1520(a)–(g), 416.920(a)–(g), a five- 14 step evaluation determines whether a claimant is disabled. See also 20 15 C.F.R. § 404.350(a)(5) (providing for payment of disabled child's 16 insurance benefits if the claimant was 18 years old or older and has a 17 disability that began before attaining age 22). If there is medical 18 evidence of drug or alcohol addiction, the ALJ must then determine 19 whether substance use is a material factor contributing to the 20 1 • Jenna had not attained age 22 as of March 19, 2018, the 2 alleged onset date. 3 • Step one: Jenna had not engaged in substantial gainful 4 activity after March 19, 2018. 5 • Step two: Jenna had the following medically determinable 6 severe impairments: schizophrenia, depressive disorder, and 7 anxiety disorder. 8 • Step three: Both with and without substance use, Jenna did 9 not have an impairment or combination of impairments that 10 met or medically equaled the severity of one of

the listed 11 impairments. 12 • RFC: When considering Jenna's substance use disorder, Jenna 13 had the RFC to perform a full range of work at all exertional 14 levels with the following nonexertional limitations: 15 the claimant was capable of performing simple, routine work; could have had frequent interaction with 16 the public and coworkers; her productivity would have been reduced by 20 percent; and would have had 17 18 disability. 42 U.S.C. § 423(d)(2)(C); 20 C.F.R. §§ 404.1535, 416.935; 19 Sousa v. Callahan, 143 F.3d 1240, 1245 (9th Cir. 1998). 20 1 unexcused absences of 2 per month on a sustained basis. 2 • RFC: When excluding Jenna's substance use disorder, Jenna 3 had the RFC to perform a full range of work at all exertional 4 levels with the following nonexertional limitations: 5 the claimant was capable of performing simple, 6 routine work; was capable of frequent interaction with the public and coworkers; and productivity would be 7 reduced by 10 percent on a sustained basis. 8 • Step four: Jenna was unable to perform past relevant work. 9 • Step five: when excluding the effects of substance use, and 10 considering Jenna's RFC, age, education, and work history, 11 Jenna could have performed work that existed in significant 12 numbers in the national economy, such as power screwdriver 13 operator; cleaner, housekeeping; and assembler, small 14 products II.16 15 Plaintiff timely requested review of the ALJ's decision by the 16 Appeals Council and now this Court.17 17 18 16 AR 17–37. 19 17 AR 1–6; ECF No. 1. 20 1 II. Standard of Review 2 The ALJ's decision is reversed "only if it is not supported by 3 substantial evidence or is based on legal error" and such error 4 impacted the nondisability determination.18 "Substantial evidence is 5 'more than a mere scintilla but less than a preponderance; it is such 6 relevant evidence as a reasonable mind might accept as adequate to 7 support a conclusion.'"19 The court looks to the entire record to 8 determine if substantial evidence supports the ALJ's findings.20 9 10 18 Hill v. Astrue, 698 F.3d 1153, 1158 (9th Cir. 2012). See 42 U.S.C. § 11 405(g); Molina v. Astrue, 674 F.3d 1104, 1115 (9th Cir. 2012), 12 superseded on other grounds by 20 C.F.R. § 416.920(a) (recognizing that 13 the court may not reverse an ALJ decision due to a harmless error— 14 one that is "inconsequential to the ultimate nondisability 15 determination"). 16 19 Hill, 698 F.3d at 1159 (quoting Sandgathe v. Chater, 108 F.3d 978, 17 980 (9th Cir. 1997)). 18 20 Kaufmann v. Kijakazi, 32 F4th 843, 851 (9th Cir. 2022). See also 19 Lingenfelter v. Astrue, 504 F.3d 1028, 1035 (9th Cir. 2007) (requiring 20 1 III. Analysis 2 Plaintiff argues the ALJ erred by finding Jenna's use of drugs 3 material to the disability determination and by improperly rejecting 4 the medical opinion of Dr. Thomas Genthe. In contrast, the 5 Commissioner argues the ALJ's findings are supported by substantial 6 evidence. As is explained below, the ALJ failed to fully and fairly 7 consider the evidence during the periods that Jenna was in custody and 8 at residential treatment. As a result, the ALJ's finding that Jenna's 9 drug use was a material contributing factor to her disability and the 10 ALJ's evaluation of Dr. Genthe's medical opinion are not supported by 11 substantial evidence. 12 A. Drug Use: Plaintiff establishes consequential error. 13 Jenna struggled with substance use. The ALJ found that Jenna's 14 substance use was material to the finding of disability because "[t]he 15 16 the court to consider the entire record, not simply the evidence cited by 17 the ALJ or the parties) (cleaned

up); Black v. Apfel, 143 F.3d 383, 386 18 (8th Cir. 1998) ("An ALJ's failure to cite specific evidence does not 19 indicate that such evidence was not considered[.]"). 20 1 record, considered as a whole, shows improvement in the claimant's 2 mental health condition and increased functioning when she was not 3 using substances."21 The ALJ found that if Jenna abstained from 4 substance use, she would only be off task 10 percent of the workday; 5 whereas, the ALJ found that Jenna, when using drugs, would be off 6 task 20 percent of the workday and absent at least 2 days per month.22 7 Therefore, the ALJ found that Jenna failed to establish that her 8 substance use was not a material factor contributing to her disability.23 9 Plaintiff does not contest that Jenna's mental-health symptoms 10 were not as severe during the periods she did not use substances and 11 she took her medications, but Plaintiff maintains that, even when 12 Jenna was not using substances and she took her medications, she was 13 unable to sustain fulltime employment given her paranoia, 14 hallucinations, anxiety, and other mental-health symptoms that still 15 16 21 AR 31. See also 20 C.F.R. §§ 404.1535, 416.935; Sousa, 143 F.3d at 17 1245; Soc. Sec. Rlg. 13-2p. 18 22 AR 22, 30. 19 23 AR 31, 34. 20 1 waxed during periods of sobriety and treatment at inpatient facilities. 2 The Court agrees the ALJ erred by finding that Jenna's substance use 3 was a contributing factor material to the determination that Jenna was 4 disabled. 5 Critically, the ALJ did not discuss the abnormal mental-health 6 observations during the medication-management sessions and 7 individual therapy sessions when Jenna was at residential treatment 8 in the winter of 2021, and instead the ALJ focused on the checked 9 "unremarkable" boxes in the group therapy records.24 To appreciate the 10 impact of the ALJ's failure to discuss the observed waxing symptoms 11 during Jenna's one-on-one sessions the winter of 2021, a discussion of 12 Jenna's arrest in 2019 and subsequent competency evaluation at 13 Eastern State Hospital is also needed. 14 On January 15, 2019, Jenna was booked into Yakima County Jail 15 for theft charges.25 She was observed to be "very paranoid and 16 delusional on booking with auditory hallucinations and actively 17 18 24 AR 21, 24, 29. 19 25 AR 683. 20 1 responding to internal stimuli."26 More than a month later, on

2 February 27, 2019, Dr. Nathan Henry conducted a forensic evaluation,

3 diagnosing Jenna with an unspecified psychotic disorder and noting 4 that she did not have the capacity to understand the proceedings 5 against her or assist in her defense.27 Dr. Henry observed that Jenna 6 appeared to respond to hallucinations during the interview, she moved 7 her mouth and spoke in a low tone that was unintelligible at times, 8 although she was linear and logical in her thoughts, and Jenna 9 endorsed auditory hallucinations for the past year and reported that at 10 times she felt that someone was recording or watching her.28 The 11 Yakima County Superior Court sent Jenna to Eastern State Hospital 12 for a competency evaluation.29 13 On May 14, 2019, a competency evaluation was conducted by 14 Andy Sands, MD, as part of her admittance to Eastern State Hospital. 15 16 26 AR 685. 17 27 AR 685. 18 28 AR 685. 19 29 AR 694. 20 1 Jenna was friendly, cooperative, polite, and tidy in appearance, with a 2 variable and responsive affect.30 She appeared distracted during serial 3 7s, which she did not successfully

calculate; and she recalled 3 out of 3 4 items immediately and 2 out of 3 items on recent recall. Dr. Sands 5 found "[o]verall, her insight, judgment, and impulse control are poor 6 and affected by her psychotic state and facing legal charges."31 7 Dr. Sands opined that Jenna's "overall psychiatric prognosis is poor 8 because of chronic mental illness with ongoing psychosis and facing 9 legal charges."32 10 A week later at Eastern State Hospital, Christy Kelsey, MSW, 11 prepared a psychosocial clinical formulation.33 Jenna was cooperative 12 with blunted affect and relaxed mood, and she reported feeling anxious 13 and that people were watching her and she endorsed daily auditory 14 15 16 30 AR 687. 17 31 AR 687. 18 32 AR 688. 19 33 AR 696–98. 20 1 hallucinations, paranoia, and difficulty sleeping.34 On June 20, 2019, 2 Jenna was discharged back to Yakima County Jail after staying at 3 Eastern State Hospital for 37 days; she was prescribed Abilify, 4 propranolol, and Zoloft .35 On discharge from Eastern, Jenna was 5 cooperative, euthymic, and mildly anxious, and she denied auditory 6 and visual hallucinations.36 7 Four days later, while at jail, Jenna met with a Comprehensive 8 Healthcare employee to discuss plans upon discharge from jail.37 Two 9 days later, she met again with this individual, but was handcuffed 10 during this meeting because she had been involved in a fight due to 11 bothering someone with her loudness.38 12 Subsequent records establish that Jenna resumed using drugs 13 after she was released from Yakima County Jail. In November 2020, 14 15 34 AR 697–98. 16 35 AR 682–83. 17 36 AR 684. 18 37 AR 1068. 19 38 AR 1069. 20 1 Jenna was screened by the Department of Corrections (DOC) for a 2 DOC violation.39 A mental health progress note a few days later 3 mentions that Jenna was seen "rocking back and forth and talking very 4 fast," she reported hearing voices, she endorsed paranoia, and her 5 mood was anxious with affect congruent to content.40 6 At a session a week later, Jenna's stream of thought was clear 7 and coherent with no disturbances in thought process, speech was 8 within normal limits, mood was dysthymic and affect congruent, and 9 she did not appear to be responding to any internal stimuli and was 10 able to stay on topic.41 In mid-December, Jenna was released from jail 11 to residential substance abuse treatment at Pathways.42 Within the 12 week, Jenna had a medication-management appointment with Laura 13 King, PharmD.43 During the appointment, Jenna rocked back and forth 14 15 39 AR 717–20. 16 40 AR 730. 17 41 AR 725. 18 42 AR 727. 19 43 AR 845–52. 20 1 in her chair and bounced her legs.44 Abilify was increased to assist with 2 Plaintiff's audio hallucinations, visual hallucinations, olfactory 3 hallucinations, paranoid thoughts, and mood stability.45 Risperidone 4 was prescribed to further help with hallucinations, and hydroxyzine 5 prescribed to lower Plaintiff's social anxiety. 6 Jenna began group therapy at Pathways for substance abuse. The 7 group therapy records note via checked boxes that Plaintiff's 8 mood/affect, thought process/orientation, behavior/functioning, medical 9 condition, and substance abuse were "unremarkable" and that she was 10 in a good mood.46 In addition to the group therapy sessions, Jenna 11 began individual therapy while at Pathways. Jenna's individual 12 therapy records also had the "unremarkable" box checked for 13 mood/affect, thought process/orientation, behavior/functioning, medical 14 condition, and substance abuse, but the

individual therapy records also 15 16 17 44 AR 846. 18 45 AR 846. 19 46 See, e.g., AR 29, 33. 20 1 contain personalized observations and findings.47 For instance, the
2 January 14, 2021 individual therapy note states:
3 Jenna continues to make progress in coping with her anxiety and depression but expresses some confusion and 4 symptoms of anxiety (shaky voice, rapid speech, body movements, diminished ability to express thoughts clearly), 5 and at times overthinking her discharge plans which are not in the immediate future. Jenna presents as being in a 6 "plan every detail" of her life moving forward and will discuss with one Pathways staff member a detail about her 7 next step, and then immediately go into another discussion with a different staff member about the same subject at the 8 same intensity over the same issues as if it were not already discussed.48 9 The same day as this individual therapy session, Jenna had 10 another medication-management appointment with Dr. King.49 Jenna 11 reported that she was feeling better and that her crying spells had 12 decreased, but she was still having issues with depression, anxiety, 13 obsessions, compulsions, getting upset, having paranoid thoughts, daily 14 15 16 17 47 AR 933–34 18 48 AR 934. 19 49 AR 935–45. See also AR 845–52. 20 1 panic attacks, and audio hallucinations, although they were quieter.50 2 Jenna was observed as restless, hyperverbal, and distractable, with a 3 rapid and quivering voice, an anxious mood, an anxious and 4 blunted/flat affect, hopelessness, poor attention span, racing thoughts, 5 flight of ideas, and thoughts that were delusional/paranoid.51 Dr. King 6 again increased Abilify and sertraline to help with Jenna's symptoms 7 of psychosis and depression/anxiety.52 The hydroxyzine was stopped 8 and clonidine was added to help with anxiety, and prazosin was added 9 to help with nightmares.53 10 Two weeks after the January medication-management 11 appointment and the individual therapy session, Plaintiff had a 12 psychological evaluation with Thomas Genthe, PhD, at the request of 13 the DSHS.54 Dr. Genthe did not review any records, and the evaluation 14 15 50 AR 936. 16 51 AR 939–43. 17 52 AR 936. 18 53 AR 936. 19 54 AR 824–32. 20 1 included a clinical interview and mental status examination. 2 Dr. Genthe noted that Jenna's speech was at a normal rate and she 3 answered questions with an appropriate amount of detail; she was 4 open, cooperative, and friendly; her reality testing was moderately 5 impaired as evidenced by delusional/paranoid thinking; she presented 6 with a history of depression and anxiety; her thoughts were somewhat 7 disorganized; she was oriented; her immediate recall was normal but 8 she was only able to recall 2 of 4 objects after a 5-minute delay; and she 9 had significant difficulties following the conversation.55 Dr. Genthe 10 found her level of understanding about the factors contributing to her 11 illness fair and her level of understanding of actions affecting 12 consequences poor, while her level of understanding for the need to 13 comply with treatment was good.56 14 The next day, Jenna had another individual therapy session.57 15 Again, "unremarkable" was checked for mood/affect, thought 16 17 55 AR 830–31. 18 56 AR 831. 19 57 AR 990. 20 1 process/orientation, behavior/functioning, medical condition, and 2 substance abuse. However, the written notes state, "Jenna continues to 3 express anxiety, difficulty sitting still, and diminished self-confidence, 4 but

improvements have been noted in each of these areas over the last 5 couple weeks."58 6 On February 4, 2021, Jenna met again with Dr. King.59 Jenna 7 reported improved sleep, fewer nightmares, and toned down paranoid 8 beliefs, but depression remained the same, and she still experienced 9 auditory hallucinations at night and high anxiety.60 She presented 10 "much more restless/fidgety than during previous appointments."61 She 11 also presented as hyperverbal with a rapid, quivering voice; anxious 12 mood; blunted/flat and anxious affect; poor attention span; distractible; 13 racing thought process with flight of ideas; and thought content that 14 15 16 58 AR 993. 17 59 AR 1015–26. 18 60 AR 1017. 19 61 AR 1017. 20 1 was delusional, paranoid, lonely, hopeless, helpless, and worthless.62 2 Medications were continued as prescribed except risperidone was 3 increased to reduce psychosis, prazosin was increased to reduce 4 nightmares, clonidine was stopped, and buspirone was started for 5 anxiety.63 6 The next day Plaintiff had individual therapy.64 Again, the 7 "unremarkable" boxes were checked.65 However, Jenna continued to 8 "express/report anxiety, difficulty thinking/explaining herself clearly, 9 and being preoccupied with sorting out life after treatment at 10 Pathways."66 Jenna had less anxiety and was observed with 11 appropriate dress, good hygiene, and continued "to complete 12 assignments with improved effort in recent days."67 13 14 62 AR 1020–21. 15 63 AR 1017. 16 64 AR 1210–11. 17 65 AR 1210. 18 66 AR 1211. 19 67 AR 1211. 20 1 A week later, Jenna had another individual therapy session.68 2 Again, the "unremarkable" boxes were checked, with more details 3 provided in the written Intervention/Progress section. Jenna was 4 appropriately dressed with good hygiene.69 She continued "to report 5 anxiety and becoming preoccupied by planning her life following 6 inpatient treatment, but this has been part of her copying strategy for 7 guilt and depressive episodes."70 She also expressed "difficulty with 8 patience as evidenced by her wanting to live with her sister versus stay 9 at Pathways until other housing can be arranged."71 10 Four days after that session, Jenna was discharged from 11 Pathways.72 Within days of discharge, Jenna had difficulty following 12 through with the steps required for outpatient services. First, she 13 missed an appointment because she did not have a ride; then the next 14 15 68 AR 1043–44. 16 69 AR 1044. 17 70 AR 1044. 18 71 AR 1044. 19 72 AR 1060. 20 1 day, she failed to be present when her arranged community-support 2 ride came to pick her up at her residence.73 She continued to fail to 3 communicate with outpatient treatment for two weeks.74 Finally, in 4 mid-March 2021, Jenna requested a refill on her medications.75 In the 5 beginning of April 2021, Jenna worked with community support to 6 complete paperwork to get a replacement social security card and 7 obtain housing; during this meeting, Jenna advised that she had 8 stopped taking her medications the week prior and had started to hear 9 voices and talk to herself.76 10 The next records document a crisis intervention with Jenna in
11 June 2021; Jenna's cognition and memory were impacted by substance
12 use and her urine drug screen was positive for methamphetamine.77 13 14 15 73 AR 1248–49. 16 74 AR 1250. 17 75 AR 1251–53. 18 76 AR 1255. 19 77 AR 1257. 20 1 In August 2021, Jenna had a psychological evaluation; her friend 2 who she lived with accompanied her.78 Jenna was

observed to be 3 agitated, anxious, fidgeting in her chair, responding to internal stimuli, 4 distracted, and with grossly impaired insight and judgment, poor 5 concentration, poor attention span, disorganized thought process, 6 blocking, delusional and paranoid thoughts, and a poor attitude and 7 not wanting to answer questions.79 Her friend advised that Jenna 8 refused to shower because she was afraid there were microphones or 9 people watching her in the bathroom.80 Her friend shared that Jenna 10 at times spoke in a word salad and that some nights she moved around 11 the house.81 Jenna refused to answer questions about substance use.82 12 Mental health medications were re-prescribed.83 13 14 78 AR 1307–16. 15 79 AR 1307–11. 16 80 AR 1307. 17 81 AR 1307. 18 82 AR 1309. 19 83 AR 1313. 20 1 Jenna continued to take her medications for at least a month, but 2 in late September 2021, Jenna's friend advised that Jenna had a 3 reaction to one of the medications.84 The next week, Jenna had a 4 follow-up with Pathways.85 She reported she was taking her prescribed 5 medications and her anxiety was lower and her mood was improving 6 some although she still reported hearing ego dystonic (intrusive) voices. 7 Her voice was soft with paucity; she was anxious with a congruent, 8 blunted/flat affect; she was distracted and paranoid; her judgment and 9 insight were fair.86 Her friend advised that Jenna "has a couple of 10 times involuntarily held out one of her arms but then puts it back to a 11 normal position"; the provider wondered whether waxy flexibility—a 12 catatonic symptom—was starting.87 A trial of Paliperidone was 13 prescribed, along with the prior medications.88 14 15 84 AR 1317–18. 16 85 AR 1318–29. 17 86 AR 1322–24. 18 87 AR 1320. 19 88 AR 1320. 20 1 In October 2021, Jenna failed to show for a consultative 2 examination requested by DSHS.89 In November 2021, Jenna's friend 3 called for a crisis intervention because Jenna was becoming "difficult" 4 and suspected that Jenna had relapsed.90 Jenna was resentful of being 5 approached, defiant, slow in speech, fidgety, she had fair insight and 6 judgment, and intact thought process.91 Jenna denied using drugs.92 7 The next month, a welfare check was requested by Jenna's friend 8 because Jenna had been yelling and using foul language and overall 9 doing worse.93 Upon arrival, Jenna appeared anxious and somewhat 10 paranoid; her grooming and hygiene were fair; her eye contact was 11 sporadic and speech minimal with latency in responses; her manner 12 was evasive, guarded, and suspicious; and she reported she was taking 13 her medications. She denied using methamphetamine, although the 14 15 89 AR 1303. 16 90 AR 1331. 17 91 AR 1331. 18 92 AR 1331. 19 93 AR 1331–32. 20 1 crisis note indicates that labs from late November showed a relapse on 2 methamphetamine; such labs are not part of the administrative 3 record.94 4 Jenna passed away from a fentanyl overdose in August 2022.95 5 Again, it is undisputed that Jenna struggled with substance use 6 and that her mental health declined when she used drugs. However, by 7 focusing on the group therapy records with checked "unremarkable" 8 findings, instead of considering the more individualized records, the 9 ALJ's assessment of the materiality of Jenna's drug use is not 10 supported by substantial evidence. Contrary to the ALJ's finding that 11 there were "largely modest mental status examination findings during 12 residential treatment," the medical records during the court-ordered 13 competency evaluation in 2019 and the medication-

management 14 records and individual therapy records during the winter of 2020–01 at 15 Pathways reveal that Jenna still experienced significant mental-health 16 symptoms even when she took her medication and abstained from 17 18 94 AR 1332. 19 95 AR 1334. 20 1 substances.96 Jenna's improvement in the context of inpatient facilities 2 where life stressors were reduced and where she did not need to worry 3 about housing, transportation, arranging treatment, or interacting 4 with coworkers or the public was not to such an extent to support the 5 ALJ's finding that she could function effectively in a workplace. The 6 evaluations and individual sessions reflect that Jenna was restless and 7 distractible, would become hyper focused on a topic, and her non- 8 immediate recall was limited. Although she improved to some extent 9 while at inpatient treatment, once released she struggled, even when 10 she lived with a friend who was active in overseeing Jenna's 11 12 96 See Attmore v. Colvin, 827 F.3d 872, 878 (9th Cir. 2016) ("It is the 13 nature of bipolar disorder that symptoms wax and wane over 14 time."); Garrison v. Colvin, 759 F.3d 995, 1017 (9th Cir. 2014) ("Cycles 15 of improvement and debilitating symptoms are a common occurrence, 16 and in such circumstances it is error for an ALJ to pick out a few 17 isolated instances of improvement over a period of months or years and 18 to treat them as a basis for concluding a claimant is capable of 19 working."). 20 1 medication and seeking community support. Therefore, as both 2 Dr. Sands and Dr. Genthe opined, even when sober and taking mental- 3 health medications, Jenna's chronic mental illness severely limited her 4 thought processes, thereby limiting her ability to perform and sustain 5 fulltime work. The ALJ's finding otherwise is not supported by 6 substantial evidence. 97 7 B. Dr. Genthe's Medical Opinion: Plaintiff establishes 8 consequential error. 9 Plaintiff also argues the ALJ erred by rejecting Dr. Genthe's 10 evaluating opinion that Plaintiff had multiple marked mental 11 limitations that were not the result of a substantial use disorder and 12 would continue with sobriety. The Court agrees. 13 1. Standard 14 The ALJ must consider and articulate how persuasive he found 15 each medical opinion and prior administrative medical finding, 16 including whether the medical opinion or finding was consistent with 17 18 97 As is explained further below, Plaintiff fails to establish that the ALJ 19 erred in denying disability for the period before January 15, 2019. 20 1 and supported by the record.98 The factors for evaluating 2 persuasiveness include, but are not limited to, supportability, 3 consistency, relationship with the claimant, and specialization.99 When 4 considering the ALJ's findings, the Court is constrained to the reasons 5 and supporting explanation offered by the ALJ.100 6 2. Dr. Genthe's Opinions101 7 As mentioned above, Dr. Genthe conducted a psychological 8 evaluation in January 2021 while Jenna was at Pathways.102 Based on 9 the clinical interview and mental status examination, Dr. Genthe 10 opined that Jenna was: 11 12 98 20 C.F.R. §§ 404.1520c(a)–(c), 416.920c(a)–(c); Woods v. Kijakazi, 32 13 F.4th 785, 792 (9th Cir. 2022). 14 99 20 C.F.R. §§ 404.1520c(c), 416.920c(c)(1)–(5). 15 100 See Burrell v. Colvin, 775 F.3d 1133, 1138 (9th Cir. 2014). 16 101 In addition to Dr. Genthe's opinion, the ALJ found the state agency 17 psychologist consultants' assessments that there was insufficient 18 evidence to rate Jenna's functioning as unpersuasive.

AR 35. 19 102 AR 824–32. 20 1 • moderately limited in the abilities to perform routine tasks 2 without special supervision, make simple work-related 3 decisions, ask simple questions or request assistance, and 4 understand, remember, and persist in tasks by following very 5 short and simple instructions. 6 • markedly limited in the abilities to understand, remember, 7 and persist in tasks by following detailed instructions; perform 8 activities within a schedule, maintain regular attendance, and 9 be punctual within customary tolerances without special 10 supervision; learn new tasks; adapt to changes in a routine 11 work setting; be aware of normal hazards and take appropriate 12 precautions; communicate and perform effectively in a work 13 setting; maintain appropriate behavior in a work setting; 14 complete a normal workday and workweek without 15 interruptions from psychologically based symptoms; and set 16 realistic goals and plan independently.103 17 18 19 103 AR 828. 20 1 Dr. Genthe opined these limitations were not primarily the result of a 2 substance use disorder and would persist following sixty days of 3 sobriety.104 He wrote: 4 Based on behavioral observations made, information gained during the clinical interview, she appears to meet DSM-5 5 criteria for Schizophrenia, Post-Traumatic Stress Disorder, Panic Disorder and Major Depressive Disorder, with anxiety 6 features. At this point, [Jenna]'s panic symptoms are at least moderately well managed, but her other symptoms are 7 not, which are likely to interfere with her ability to initiate or maintain future employment. It is recommended that she 8 be referred for a psychiatric consultation to review her regimen and dosages for effectiveness. Additionally, 9 continued involvement in weekly mental health counseling is highly recommended to address various psychosocial 10 stressors that contribute to her current level of emotional distress. From a psychological perspective, due to the 11 chronic nature of [Jenna]'s symptoms, her prognosis is viewed as poor. It is unlikely that her conditions will 12 improve to the point of her being able to resume normal work activities within the next 12 months. Thus, a referral 13 for SSI track appears warranted and appropriate.105 14 3. The ALJ's Findings as to Dr. Genthe's Opinion 15 The ALJ found Dr. Genthe's opined limitations not persuasive 16 because: 17 18 104 AR 829. 19 105 AR 829. 20 1 • "the limitations [were] assessed in a check-box format, and [were] not accompanied by explanation or 2 support." 3 • his "opinion is not consistent with other evidence of record, including contemporaneous records from 4 residential treatment before and after his assessment that note unremarkable mood, affect, thought process, 5 orientation, and behavior; as well as records from group treatment, where she was an active participant 6 and often noted to be in a good mood, with no evidence of any notable difficulties with interaction or 7 communication."106 8 4. Analysis 9 Substantial evidence does not support the ALJ's supportability 10 evaluation. Dr. Genthe offered more than his check-box limitation 11 ratings; he listed his observations and test results and explained that 12 Jenna's conditions were chronic and that her conditions were unlikely 13 to improve within the next twelve months. Dr. Genthe's opined 14 limitations were contained in a check-box portion of what was 15 otherwise a very thorough and detailed narrative report which 16 provided notes from his clinical review, mental status examination 17 results, assessment/diagnosis, and prognosis, as well

as treatment 18 19 106 AR 35. 20 1 recommendations.107 While the limitations were set forth in a "check- 2 box format" portion of the report, it is error to take them out of context 3 and not to consider them as a part of the detailed report in its entirety. 4 Additionally, the ALJ's supportability finding failed to recognize 5 that Dr. Genthe found Jenna's "reality testing was moderately 6 impaired as evidenced by delusional/paranoid thinking," that her 7 "thoughts were somewhat disorganized," and that she "had significant 8 difficulties following the conversation."108 The ALJ's failure to mention 9 material thought-process deficiencies observed during the evaluation 10 consequently impacted the ALJ's evaluation of Dr. Genthe's opined 11 limitations.109 12 13 107 AR 824-831. 14 108 AR 35, 830–31. 15 109 See Kilpatrick v. Kijakazi, 35 F.4th 1187, 1193 (9th Cir. 2022 (While 16 an ALJ need not address every piece of evidence, an ALJ "may not 17 ignore significant probative evidence that bears on the disability 18 analysis."); Gallant v. Heckler, 753 F.2d 1450, 1456 (9th Cir. 1984) 19 (recognizing it is improper for an ALJ to "reach a conclusion first, and 20 1 In addition, substantial evidence does not support the ALJ's 2 consistency evaluation. The ALJ's consistency evaluation failed to fully 3 and fairly consider the severe abnormal mental-health symptoms noted 4 in the one-on-one treatment records and mental-health evaluations 5 while Jenna was at Pathways, Yakima County Jail, and Eastern State 6 Hospital. 7 C. Remand: for an award of Title 2 and 16 partial benefits. 8 Plaintiff seeks a remand for payment of benefits. Although 9 remand for further administrative proceedings is the usual course 10 when a harmful error occurs in the administrative proceeding, an 11 award of partial benefits is appropriate on this record, as Jenna has 12 died and there is no need to develop the record as further 13 administrative proceedings would serve no useful purpose.110 14 15 then attempt to justify it by ignoring competent evidence in the record 16 that suggests an opposite result"). 17 110 See Treichler v. Comm'r of Social Sec. Admin., 775 F.3d 1090, 1099 18 (9th Cir. 2014) (quoting Fla. Power & Light Co. v. Lorion, 470 U.S. 729, 19 744 (1985)). 20 1 Jenna establishes disability beginning January 15, 2019, when 2 she was booked into Yakima County Jail and observed to be "very 3 paranoid and delusional . . . with auditory hallucinations and actively 4 responding to internal stimuli."111 Six weeks later, Dr. Henry also 5 observed Jenna being severely impacted by her hallucinations, 6 paranoia, and anxiety symptoms.112 Although Jenna mentioned to 7 Dr. Henry, and others after that date, that she experienced auditory 8 and visual hallucinations for the past year,113 those reports conflict 9 with her prior contemporaneous statements to others, as well as the 10 observed symptoms: 11 • October 2017: "none" box checked for hallucinations; Jenna 12 reported she felt okay; presented with normal speech, thought 13 process and content; found to not need mental-health services; 14 she was employed; she was charged with a DUI.114 15 16 111 AR 685. 17 112 AR 685. 18 113 See AR 685, 1066. 19 114 AR 1281–82. 20 1 • November 2017: reporting stress dealing with a relationship 2 and that her drug use made her anxious, but no reports of 3 hallucinations or paranoia; she presented as anxious but did 4 not appear to be experiencing perceptual disturbances as 5 thought content was intact and no presence of delusional 6 thought content; she was employed at Sea Galley.115 7 •

February 2018: “none” box checked for hallucinations; 8 presented with normal thought process, content, and speech; 9 clinician found that Jenna did not need mental-health services; 10 she was not employed, and she was not taking any mental- 11 health medications.116 12 • August 2018: Jenna reporting that her mood was “fine”; “none” 13 box checked for hallucinations; she presented with normal 14 thought content and speech and as clear and alert; she was not 15 employed; she was jailed on failure to appear for a warrant.117 16 17 115 AR 1268. 18 116 AR 1276–80. 19 117 AR 1271–73. 20 1 • October 2018: Jenna did not report any medical conditions to 2 the treatment provider when she was admitted to detox for 3 recent methamphetamine use; she was observed as anxious 4 and with rapid/slurred speech.118 5 Given the inconsistency in the records as to when Jenna began 6 experiencing disabling hallucinations, paranoia, and anxiety, Plaintiff 7 fails to establish that the ALJ’s denial of disability, on the basis that 8 Jenna’s drug use was a material factor contributing to her symptoms, 9 is not supported by substantial evidence for the period before Plaintiff’s 10 booking on January 15, 2019. On and after January 15, 2019, the 11 records clearly reflect that, even with medication and sobriety, Jenna’s 12 schizophrenia, depressive disorder, and anxiety disorder were of such 13 severity that she was unable to sustain full-time employment.119 14 Therefore, provided all other program requirements are met for 15 16 17 118 AR 1285–90. 18 119 See Smith v. Kijakazi, 14 F.4th 1108, 1113–16 (9th Cir. 2021) 19 (considering when impairments develop, improve, and worsen). 20 1 substitution of party, Title 2 and Title 16 benefits are to be paid for the 2 period of January 15, 2019, to August 3, 2022. 3 Prior to January 15, 2019, substantial evidence, including 4 Jenna’s statements to providers and the providers’ observations, 5 supports the ALJ’s decision that Jenna’s drug use was a contributing 6 factor material to her mental-health limitations. Because Jenna 7 attained the age of 22 before disability onset, the ALJ’s denial of child 8 benefits is supported by substantial evidence. 9 IV. - Conclusion 10 The ALJ erred. For Title 2 disability insurance and Title 16 11 benefits, disability is established for the period January 15, 2019, to

12 August 3, 2022. Child benefits are not awarded.

13 Accordingly, IT IS HEREBY ORDERED: 14 1. The ALJ’s nondisability decision is REVERSED, and this 15 matter is REMANDED to the Commissioner of Social 16 Security for immediate calculation and award of 17 benefits for the disability period of January 15, 2019, to

18 August 3, 2022, provided all other program requirements

19 are met for substitution of party. 20 1 2. The Clerk’s Office shall TERM the parties’ briefs, ECF 2 Nos. 7 and 9, enter JUDGMENT in favor of Plaintiff, and

3 CLOSE the case. 4 IT IS SO ORDERED. The Clerk’s Office is directed to file this 5 ||order and provide copies to all counsel. 6 DATED this 9* day of February 2026. ed Lew.

8 EDWARD F.SHEA

Senior United States District Judge 9 10 11 12 13 14 15 16 17 18 19